

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FOURTH REGION**

FAIRMOUNT BEHAVIORAL  
HEALTH SYSTEM,

Employer,  
and

NUHHCE, DISTRICT 1199C

Case No. 04-RC-265965

Petitioner.

**EMPLOYER’S UNOPPOSED MOTION TO POSTPONE THE TIME FOR FILING  
THE EMPLOYER’S POST-HEARING BRIEF REGARDING THE PRE-ELECTION  
HEARING**

Pursuant to Section 102.66(h) of the Board’s Rules and Regulations, Fairmount Behavioral Health System (hereinafter “Employer”) requests that the Regional Director postpone the time for the filing of Employer’s post-hearing brief from October 22, 2020 until November 5, 2020. In support of this request, the Employer states as follows:

1. The Pre-Election Hearing in this matter closed at approximately 7:30pm on October 15, 2020.
2. Rule 102.66(h) provides that a party is entitled to file a post-hearing brief within 5 business days following the close of the record of the pre-election hearing. Rule 103.66(h) further provides that the time for filing a post-hearing brief may be extended for a period of time not to exceed 10 business days for good cause shown.
3. The Pre-Election Hearing lasted two full days; the second day extended from 9:00 a.m. to approximately 7:30 p.m. Almost 500 pages of transcript are expected to be generated from the hearing. In addition, 35 Employer exhibits, plus multiple Board exhibits and one Petitioner exhibit, were entered into the record. Notwithstanding its request for an expedited transcript, Employer has not received the transcript of the pre-election hearing as of the filing of this Motion.
4. There are numerous issues to be addressed in Employer’s brief, including but not limited to: the appropriate test for determining whether per diem employees are eligible to vote in the election, whether the employees in Petitioner’s proposed unit are technical employees and should be the only classification in a technical bargaining unit, whether the employees in eight additional classifications have a community of interest with the employees in the classification that Petitioner has proposed to be included in the unit, and

whether the employees in one of the aforementioned classifications are statutory supervisors under the Act. Five business days is not enough time to adequately brief these numerous and complex issues in a manner that will allow the Regional Director to make an informed Decision and Direction of Election.

5. Employer's Counsel has multiple conflicts which constitute good cause for extending the period of time, including several depositions scheduled within the 5 business day period; another post-hearing brief in a separate case that is due to be filed on October 23, 2020, one day after the 5 business day deadline; several prep sessions during the week of October 20, 2020 for a hearing that is scheduled for October 27, 2020, and a personal medical appointment on October 20, 2020 which cannot be rescheduled. Employer's Counsel raised the need for an extension of time to file a post-hearing brief during the pre-election hearing in this matter.
6. Employer's labor relations representative will be in collective bargaining negotiations during the week of October 20<sup>th</sup> and will not be in a position during the 5 business day period to adequately review a draft post-hearing brief in order to confirm Employer's positions and representations regarding the multitude of issues addressed in the brief.
7. This brief delay in the filing of Employer's post-hearing brief will not prejudice the Petitioner's or the Board's interests.

8. Employer's Counsel has confirmed that Petitioner does not object to the Employer filing this Motion and further does not object to the Employer's request for an extension of time to file its post-hearing brief.

Wherefore, Employer requests that the Regional Director postpone the time for the filing of the Employer's post-hearing brief until noon on November 5, 2020.

Date: October 16, 2020

Respectfully submitted,

Paisner Litvin, LLP

/s/ Diane Apa Hauser

Diane Apa Hauser, Esquire

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Health System

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2020, I have served Petitioner with Employer's Unopposed Motion for Postponement of Time for Filing Statement of Position.

Dated: October 16, 2020

/s/ Diane Apa Hauser  
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